THE HON'BLE SRI JUSTICE V. ESWARAIAH
AND
THE HON'BLE SRI JUSTICE NOUSHAD ALI

C.C.No.671 of 2010

ORDER: (per the Hon'ble Sri Justice V. Eswaraiah)

This Contempt Case is filed alleging that the respondents intentionally and willfully disobeyed the order, dated 10-02-2010, passed by this court in W.P.Nos.2334 of 2010 and 2336 of 2010, by not paying salaries to the petitioner, as directed by this Court in the above said writ petitions.

Heard both the counsel.

The petitioner was appointed as Telugu Pandit Grade-II on 18-11-1996 and she was given posting at Government Upper Primary School, Rangampet Jail, Warangal District (for short "GUPS"). Thereafter, she was transferred to Mandal Parishad Upper Primary School, Kalleda of Parvathagiri Mandal, Warangal District (for short "MUPS"). Since her transfer from GUPS to MUPS is in violation of the Presidential order and contrary to the judgment of this Court in W.P.No.11325 of 2000, dated 18-09-2003, the petitioner filed O.A.No.7717 of 2005 before the A.P.Administrative Tribunal at Hyderabad and the Tribunal vide its order, dated 23-11-2005, granted status-quo. Since the petitioner has been continuing as Telugu Pandit Grade-II in GUPS, she is said to have continued by virtue of the said status-quo order. The Tribunal, vide its interim orders, dated 25-11-2005 and 29-10-2007 directed the Government to pay salaries to the petitioner. Aggrieved thereby, the Commissioner and Director of School Education, A.P., Hyderabad, the District Educational Officer, Warangal District and the Head Master, Government Upper Primary School, Rangampet Jail, Warangal District, filed W.P.Nos.2334 and 2336 of 2010 and this Court by order, dated 10-02-2010, allowed the writ petitions by observing as follows:-

"Therefore, it is not in dispute that the

1st respondent being the Government servant working in a Government school cannot be transferred and posted into Zilla Parishad School. Accordingly, the O.A. itself is liable to be allowed setting aside the transfer order in view of the subsequent events as the said Act itself has been set aside by a Division Bench of this Court in ***Government of Andhra Pradesh v. P.Vema Reddy***.

Following the aforesaid judgment of this Court, with the consent of both the parties, we dispose of the writ petitions by allowing the O.A itself and impugned order in the O.A. i.e., the transfer order transferring the respondent from Government Upper Primary School, Rangampet Jail, Warangal District to Mandal Parishad Upper Primary School, Kalleda, Parvathagiri, Warangal District, is set aside.

We are of the opinion that the interim order of the Tribunal directing the Government to pay salaries which are impugned herein are liable to be made absolute as the O.A. itself is allowed. Accordingly, the interim order to that extent is made absolute though the 1st respondent is continuing to work in the same Government school she is entitled to salary. However, it is open for the petitioners to transfer her to any other place in accordance with the transfer policy. The Government is free to post the 1st respondent applicant in any of the Government school as per the existing transfer policy.

The learned Government Pleader submits that consequent to the transfer of the applicant somebody was posted in the same Government school and therefore there was some difficulty in drawing salary for both the Teachers in the same school.

We are of the opinion that it is for the Government to resolve the said issue, but the applicant cannot suffer for the said anomaly. Having regard to the facts and circumstances of the case, we grant six weeks time for payment of entire salary payable to the 1st respondent from the date of receipt of a copy of this order.

In view of these order, the contempt application pending before the Tribunal as well as the O.A. shall stand disposed of.

The writ petitions are accordingly disposed of. No order as to costs."

For non-payment of salaries, pursuant to the above said order of this Court, the present contempt case is filed.

It is not in dispute that, pursuant to the order of this Court, salary from the date of transfer i.e., 16-11-2005 to 31-03-2010 were directed to be paid by the District Educational Officer vide proceedings in Rc.No.7717/B1/2009, dated 01-07-2010. In fact, disbursement of salaries up to March 2010 amounting to Rs.5,06,133/- was paid to the petitioner.

In the counter affidavit filed by the respondents, it is stated that the Mandal Educational Officer, Warangal, worked out the salary payable to the petitioner from 16-11-2005 to 30-06-2010 and prepared the salary bill for an amount of Rs.5,06,133/- and submitted to the District Treasury Officer, Warangal, and the said amount was also paid to the petitioner. But, in fact, salaries were paid up to March, 2010 only but not up to the end of June, 2010 and the District Educational Officer submitted that the said averment made in the counter affidavit is by mistake and the said mistake was realized and the salaries from April 2006 to June, 2010 were also paid.

Learned counsel for the petitioner submits that no doubt the entire salaries payable up to June, 2010 have been paid, but the usual increments, arrears of scale etc., have not been paid.

Learned Government Pleader appearing for the respondents submits that whatever amounts payable to the petitioner will be worked out and will be paid.

In view of substantial compliance of the order of this court and as the salaries have already been paid to the petitioner, by recording the undertaking given by the District Educational Officer that the usual increments and arrears of scale if any payable to the petitioner will be worked out and paid within three weeks from today, the contempt case is closed. There shall be no order as to costs.

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V.ESWARAIAH, J

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NOUSHAD ALI, J

Date: 08-09-2010

Prv